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S. 110

STATUS INFORMATION

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Sponsors: Senator Massey

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Prefiled in the Senate on December 12, 2018

Currently residing in the Senate Committee on **Judiciary**

Summary: Not yet available

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/12/2018	Senate	Prefiled
12/12/2018	Senate	Referred to Committee on Judiciary

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VERSIONS OF THIS BILL

[12/12/2018](#)

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9 **A BILL**

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11 TO AMEND THE SOUTH CAROLINA CODE OF LAWS, 1976,
12 BY ADDING SECTION 58-27-1025 TO ALLOW THE PUBLIC
13 SERVICE COMMISSION TO AUTHORIZE THE ISSUANCE
14 OF BONDS FOR THE PURPOSES OF OFFSETTING AND
15 REDUCING PRUDENTLY INCURRED COSTS DUE TO A
16 STATE OF EMERGENCY DECLARED BY THE GOVERNOR
17 OR ABANDONMENT OF A PROJECT AUTHORIZED UNDER
18 ARTICLE 4, CHAPTER 33, TITLE 58, AND TO ESTABLISH
19 THE REQUIREMENTS AND PROCESSES FOR THE
20 AUTHORIZATION OF THESE BONDS.

21
22 Be it enacted by the General Assembly of the State of South
23 Carolina:

24
25 SECTION 1. Article 7, Chapter 27, Title 58 of the 1976 Code is
26 amended by adding:

27
28 “Section 58-27-1025 (A) The commission by order may
29 authorize the issuance of bonds for the purposes of offsetting and
30 reducing prudently incurred costs due to either a state of
31 emergency declared by the Governor or abandonment of a project
32 authorized under Article 4, Chapter 33, Title 58. In order for the
33 commission to authorize the issuance of these bonds, it must find
34 that a utility’s use of this financing mechanism will reduce or
35 otherwise mitigate rate impacts to ratepayers when compared to
36 traditional utility costs recovery methods. The commission shall
37 set the amount of recoverable costs and allowable financing costs
38 to be securitized and shall authorize a special charge to ratepayers
39 to be used solely to repay the securitized debt. The special charge
40 shall not exceed the actual cost to the utility to repay the
41 securitized debt. Except as provided in this section, a financing
42 order is irrevocable, and the commission may not amend, modify

1 or terminate the order by any subsequent action or reduce, impair,
 2 postpone, terminate or otherwise adjust the charges approved in
 3 the order. A financing order issued to a utility remains in effect
 4 notwithstanding the reorganization, bankruptcy or other insolvency
 5 processing, merger, or sale of the utility or its successor or
 6 assignees. The financing order issued by the commission shall:

7 (1) specify the amount of securitized debt to be financed and
 8 recovered from ratepayers;

9 (2) specify the time period over which the securitized debt is
 10 to be recovered from ratepayers;

11 (3) provide detailed findings addressing cost-effectiveness
 12 and associated rate impacts;

13 (4) require the imposition and collection of the special
 14 charge be nonbypassable and paid by all future ratepayers
 15 receiving service from the utility or its successors or assignees;

16 (5) include a mechanism for making and approving periodic
 17 adjustments to the special charge to correct over- and under-
 18 collection of the special charges or to otherwise ensure the timely
 19 payment of the securitized debt;

20 (6) specify the special purpose entity that shall be used to
 21 pay or secure the bonds;

22 (7) specify the periodic reporting requirements as deemed
 23 necessary by the commission; and

24 (8) include any other conditions the commission considers
 25 appropriate and that are authorized by this section.

26 (B) If authorized by the commission to issue such bonds, the
 27 utility shall cause their issuance through a special purpose entity.
 28 The utility shall receive the special charges approved by the
 29 commission and the special purpose entity in turn shall issue the
 30 bonds through a true sale. The true sale shall be achieved through
 31 an absolute transfer of the utility's entire right, title, and interest in
 32 the special charges. The transferred property right in the charges
 33 then shall be pledged by the special purpose entity to secure the
 34 payment of the debt service on the bonds that the special purpose
 35 entity issues. The bonds shall be payable solely from the pledged
 36 special charges. The securitization bonds are non-recourse to the
 37 utility and the principal, interest, and other financing costs shall be
 38 paid by the utility's current and future ratepayers through a
 39 nonbypassable charge that is separate and apart from the electric
 40 utility's base rates, on their electric bill as approved by the
 41 commission. The commission shall adjust the charge periodically
 42 to guarantee sufficient funds to timely pay principal, interest, and
 43 all expenses of the transaction, to make necessary adjustments to

1 correct for any overcollection and undercollection, and shall
 2 require the utility to use the net proceeds received from the
 3 transaction for specified purposes in regard to the abandonment.

4 (C) As part of the securitization authorized by this section, the
 5 State of South Carolina covenants with bondholders, the owners of
 6 the charges, and other financing parties that the State will not:

7 (1) alter the provisions of this section which make the
 8 charges imposed by a financing order irrevocable, binding, and
 9 nonbypassable charges;

10 (2) take or permit any action that impairs or would impair
 11 the value of the charges or revises the costs for which recovery is
 12 authorized; or

13 (3) except as authorized under this section, reduce, alter, or
 14 impair charges that are to be imposed, collected, and remitted for
 15 the benefit of the bondholders and other financing parties until any
 16 and all principal, interest, premium, financing costs, and other fees,
 17 expenses, or charges incurred, and any contracts to be performed,
 18 in connection with the related bonds have been paid and performed
 19 in full.

20 (D) The commission shall have a hearing to examine the impact
 21 of securitization on rates charged to ratepayers balanced with the
 22 economic impact of securitization on the utility with the goal of
 23 mitigating rate impacts to ratepayers. In the event that the
 24 commission determines that securitization is a feasible option for
 25 the utility to recover its costs pursuant to this section, and that
 26 securitization provides the lowest costs for the ratepayers yet the
 27 utility chooses to not utilize securitization, the commission shall
 28 order that the utility cannot recover from ratepayers an amount
 29 more than the utility could have recovered pursuant to
 30 securitization.”

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 32 SECTION 2. This act takes effect upon approval by the Governor.

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